

Introduced by Senator Sher

February 20, 2003

An act to amend Sections 3511, 4700, 5050, and 5515 of the Fish and Game Code, relating to fish and game, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 412, as amended, Sher. Fish and game: fully protected species.

Existing

(1) *Existing* law prohibits the taking or possession of any fully protected bird, mammal, reptile, amphibian, or fish, except that the Fish and Game Commission is authorized to permit the collection of those species for necessary scientific research.

This bill would *instead* authorize the ~~commission~~ Department of Fish and Game to permit the ~~collection~~ taking of those species for necessary scientific research, including efforts to recover those species. *The bill would require the department, prior to authorizing the take of any of those species, to make an effort to notify affected and interested parties to solicit relevant information and comments on the proposed authorization.*

(2) *Existing* law continuously appropriates money in the Fish and Game Preservation Fund to the department to pay all necessary expenses incurred in carrying out the Fish and Game Code.

By imposing new duties on the department, the bill would make an appropriation.

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 3511 of the Fish and Game Code is amended to read:

3511. (a) (1) Except as provided in Section 2081.7, fully protected birds or parts thereof may not be taken or possessed at any time. No provision of this code or any other law shall be construed to authorize the issuance of permits or licenses to take any fully protected bird, and no permits or licenses heretofore issued shall have any force or effect for that purpose. However, the ~~commission~~ department may authorize the ~~collecting~~ taking of those species for necessary scientific research, including efforts to recover ~~those~~ fully protected, threatened, or endangered species, and may authorize the live capture and relocation of those species pursuant to a permit for the protection of livestock. ~~Legally~~ Prior to authorizing the take of any of those species, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an e-mail address, if available, or postal address. Affected and interested parties shall have 30 days to provide any relevant information and comments on the proposed authorization.

(2) As used in this subdivision, “scientific research” does not include any actions taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) Legally imported fully protected birds or parts thereof may be possessed under a permit issued by the department.

(b) The following are fully protected birds:

- (1) American peregrine falcon (*Falco peregrinus anatum*).
- (2) Brown pelican.
- (3) California black rail (*Laterallus jamaicensis coturniculus*).
- (4) California clapper rail (*Rallus longirostris obsoletus*).
- (5) California condor (*Gymnogyps californianus*).
- (6) California least tern (*Sterna albifrons browni*).
- (7) Golden eagle.
- (8) Greater sandhill crane (*Grus canadensis tabida*).
- (9) Light-footed clapper rail (*Rallus longirostris levipes*).

(10) Southern bald eagle (*Haliaeetus leucocephalus* leucocephalus).

(11) Trumpeter swan (*Cygnus buccinator*).

(12) White-tailed kite (*Elanus leucurus*).

(13) Yuma clapper rail (*Rallus longirostris yumanensis*).

SEC. 2. Section 4700 of the Fish and Game Code is amended to read:

4700. (a) (1) Except as provided in Section 2081.7, fully protected mammals or parts thereof may not be taken or possessed at any time. No provision of this code or any other law shall be construed to authorize the issuance of permits or licenses to take any fully protected mammal, and no permits or licenses heretofore issued shall have any force or effect for that purpose. However, the ~~commission may authorize the collecting~~ department may authorize the taking of those species for necessary scientific research, including efforts to recover ~~those~~ fully protected, threatened, or endangered species. ~~Legally~~ Prior to authorizing the take of any of those species, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an e-mail address, if available, or postal address. Affected and interested parties shall have 30 days to provide any relevant information and comments on the proposed authorization.

(2) As used in this subdivision, “scientific research” does not include any actions taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) Legally imported fully protected mammals or parts thereof may be possessed under a permit issued by the department.

(b) The following are fully protected mammals:

(1) Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*).

(2) Bighorn sheep (*Ovis canadensis*), except Nelson bighorn sheep (subspecies *Ovis canadensis nelsoni*) as provided by subdivision (b) of Section 4902.

(3) Northern elephant seal (*Mirounga angustirostris*).

(4) Guadalupe fur seal (*Arctocephalus townsendi*).

- 1 (5) Ring-tailed cat (genus *Bassariscus*).
- 2 (6) Pacific right whale (*Eubalaena sieboldi*).
- 3 (7) Salt-marsh harvest mouse (*Reithrodontomys raviventris*).
- 4 (8) Southern sea otter (*Enhydra lutris nereis*).
- 5 (9) Wolverine (*Gulo luscus*).

6 SEC. 3. Section 5050 of the Fish and Game Code is amended
7 to read:

8 5050. (a) (1) Except as provided in Section 2081.7, fully
9 protected reptiles and amphibians or parts thereof may not be taken
10 or possessed at any time. No provision of this code or any other
11 law shall be construed to authorize the issuance of permits or
12 licenses to take any fully protected reptile or amphibian, and no
13 permits or licenses heretofore issued shall have any force or effect
14 for that purpose. However, ~~the commission may authorize the~~
15 ~~collecting~~ *department may authorize the taking* of those species
16 for necessary scientific research, including efforts to recover ~~those~~
17 *fully protected, threatened, or endangered species. Legally Prior*
18 *to authorizing the take of any of those species, the department shall*
19 *make an effort to notify all affected and interested parties to solicit*
20 *information and comments on the proposed authorization. The*
21 *notification shall be published in the California Regulatory Notice*
22 *Register and be made available to each person who has notified*
23 *the department, in writing, of his or her interest in fully protected*
24 *species and who has provided an e-mail address, if available, or*
25 *postal address. Affected and interested parties shall have 30 days*
26 *to provide any relevant information and comments on the proposed*
27 *authorization.*

28 (2) As used in this subdivision, “scientific research” does not
29 include any actions taken as part of specified mitigation for a
30 project, as defined in Section 21065 of the Public Resources Code.

31 (3) Legally imported fully protected reptiles or amphibians or
32 parts thereof may be possessed under a permit issued by the
33 department.

34 (b) The following are fully protected reptiles and amphibians:

35 (1) Blunt-nosed leopard lizard (*Crotaphytus wislizenii silus*).

36 (2) San Francisco garter snake (*Thamnophis sirtalis*
37 *tetrataenia*).

38 (3) Santa Cruz long-toed salamander (*Ambystoma*
39 *macrodactylum croceum*).

40 (4) Limestone salamander (*Hydromantes brunus*).

1 (5) Black toad (*Bufo boreas exsul*).

2 SEC. 4. Section 5515 of the Fish and Game Code is amended
3 to read:

4 5515. (a) (1) Except as provided in Section 2081.7, fully
5 protected fish or parts thereof may not be taken or possessed at any
6 time. No provision of this code or any other law shall be construed
7 to authorize the issuance of permits or licenses to take any fully
8 protected fish, and no permits or licenses heretofore issued shall
9 have any force or effect for that purpose. ~~However the commission~~
10 ~~may authorize the collecting~~ *However, the department may*
11 *authorize the taking of those species for necessary scientific*
12 *research, including efforts to recover those species. Legally fully*
13 *protected, threatened, or endangered species. Prior to authorizing*
14 *the take of any of those species, the department shall make an effort*
15 *to notify all affected and interested parties to solicit information*
16 *and comments on the proposed authorization. The notification*
17 *shall be published in the California Regulatory Notice Register*
18 *and be made available to each person who has notified the*
19 *department, in writing, of his or her interest in fully protected*
20 *species and who has provided an e-mail address, if available, or*
21 *postal address. Affected and interested parties shall have 30 days*
22 *to provide any relevant information and comments on the proposed*
23 *authorization.*

24 (2) As used in this subdivision, “scientific research” does not
25 include any actions taken as part of specified mitigation for a
26 project, as defined in Section 21065 of the Public Resources Code.

27 (3) Legally imported fully protected fish or parts thereof may
28 be possessed under a permit issued by the department.

29 (b) The following are fully protected fish:

30 (1) Colorado River squawfish (*Ptychocheilus lucius*).

31 (2) Thicktail chub (*Gila crassicauda*).

32 (3) Mohave chub (*Gila mohavensis*).

33 (4) Lost River sucker (*Catostomus luxatus*).

34 (5) Modoc sucker (*Catostomus microps*).

35 (6) Shortnose sucker (*Chasmistes brevirostris*).

36 (7) Humpback sucker (*Xyrauchen texanus*).

37 (8) Owens River pupfish (*Cyprinodon radiosus*).

38 (9) Unarmored threespine stickleback (*Gasterosteus aculeatus*
39 *williamsoni*).

- 1 (10) Rough sculpin (*Cottus asperrimus*).

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